

## THE FRAUD QUESTION\*

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A concern for justice and individual rights has been the hallmark of the libertarian political movement. This concern, however, has at times failed to maintain a rigorous and well-defined development of logical premises. There is a tendency to uncritically accept concepts such as "fraud" from the macroculture as a result of an emotional desire to placate a sense of life logically at odds with libertarian premises. There is a growing schism in the libertarian movement between those who will not accept the definitions implied by the altruist-collectivist macroculture and those who are more or less still involved with that sense of life. The entire "fraud" and "contractual truth-telling" controversy stems from the differing degree to which libertarians are willing to consistently apply the epistemological and ethical premises of rational egoism.

The right of an individual to his own life is a concept which refers to a real and necessary condition of self-actualizing consciousness--the capacity for making choices. This "volitional" condition is based on the ability for abstract reasoning by a process of deriving concepts from perceptual data. The difference between a mechanism and a fully self-directed entity is the capacity for making value choices. An objective ethic i.e. a science of making value choices is only derivable from the nature of reality and the nature of being conscious. The concept of the individual's right to himself proceeds from an ethic of rational egoism which is premised on the objective necessity of physically unconstrained choice-making for the individual. A conscious organism by necessity of its separate identity and its singular experience of happiness must live in its own self interest. It has ultimately no other objectively definable purpose in life. A conscious life is its own end--an individual is rationally led to the understanding that his life is an end in itself. This, in brief, is the ethic of rational egoism. It is the ethical foundation for the individual's right to himself and for libertarian political-economic premises.

The only logical basis for libertarian opposition to the coercion of the state is on the basis of the absolute right of the individual to his own life--i.e. self-ownership and self-dominion. The concept of right has to be based solidly on an ethical principle which is absolute and uncontrovertible. It can admit to no exceptions, or the entire concept of rights

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collapses to the arguments for collectivist coercion. Either an individual has by nature an absolute right to live his own life or he does not. There is in principle no middle ground. The law of identity excludes all intervening possibilities: A is A or it is not A.

The failure to recognize this fundamental epistemological principle was intellectually responsible for the tragic downfall of Classical Liberalism (laissez-faire capitalist thought) in the nineteenth century. Once it admitted (through the intellectual betrayal of Jeremy Bentham, John Stuart Mill and Herbert Spencer) to the concept of "social utility" i.e. that individual rights could be sacrificed for the attainment of the collective welfare, the contest of ideas was strategically lost. The strategically important principle in the intellectual struggle for liberty is the ethical validity and propriety of rational selfishness as opposed to the ethical concept of altruism. The latter requires self-sacrifice and living for others. The logical consequence of an altruist ethic is the sociopolitical attitude that an individual's life is not his own to live--instead it really belongs (or should belong) to others. The ultimate consequence of altruism is social collectivism: The doctrine that one's life belongs to everyone else. Generally the more concrete "everyone" is reified into a more abstracted form such as "the People", "the Working Class", "Society" or "the Public Good". Although altruism does not necessitate the forced imposition of self-sacrifice, it creates a predisposing rationale and acceptance of invading an individual's sovereignty for a "higher good". Thus, as altruism is the wellspring of statism, it should be abundantly clear that rational egoism is the ethical backbone of a libertarian social order.

The concept of fraud which constitutes an important prop in current libertarian ideological formulations is inconsistent with any rational concept of individual rights and is ultimately contrary to the ethic of rational egoism. The "Statement of Principles" of the Libertarian Party (U.S.A.) supports ". . . the prohibition of . . . fraud and misrepresentation". The standard legal definition of fraud consists of:

"An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a right; a false representation of a matter of fact, whether by words or by concealment, which deceives and is intended to deceive another so that he shall act upon it to his injury."

This definition comes from the venerable Black's Law Dictionary (Rev. 4th Edition, 1968, p. 788) and it is a good example of what many libertarians consider to be in accord with libertarian premises. The definition of fraud is based on series of implicit assumptions on the nature of ethical requirements and on individual rights.



The first assumption is that every individual has an apriori obligation to furnish others with information. Information is clearly a valuable possession--one often requiring considerable investment of time and effort to acquire. To assert that others have an apriori claim to one's understanding of truth is in principle a sanctioning of expropriation.

There are only two valid reasons for claiming an obligation on the part of someone else. The first derives from an explicit and voluntary agreement on his part to meet specified terms and the second comes from restitution for damages caused by his actions or some agency under his authority. There are no implied obligations which can form the basis for an objective and ethically valid claim, much less the basis for implementation of forceful intervention by third parties. The breach of contract, whether oral or written, is the only valid element in the over-extended and nebulous "fraud" idea.

An agreement to provide accurate information or the negotiation of an agreement if not met constitutes a valid claim. As the forced transfer of material property is an obvious infringement of the right of an individual to his life, so is the forced transfer of information. The extended notion of fraud requiring an individual to inform others of his intentions and to provide accurate information where no prior explicit and voluntary consent is given is a corollary of the altruist ethic that one has an automatic obligation to others.

The standard definition of fraud makes concealment of information in any negotiation a crime. It makes one punishable for actions never performed and for actions never agreed to in the first place. In fact, it makes one responsible for the actions, mischoices and unfounded assumptions of others. For example, the notion of fraud by concealment could logically include the peaceful purchase of any good or service. A buyer of stock shares who fails to inform the seller that he expects the stock to rise in price is concealing its true value and "deceiving" the seller by not acting to inform him of its true value. A food dealer who fails to inform every customer of the multitude of allergenic responses or other dietary problems associated with the use of his products is according to the logical inference guilty of fraud by concealment.

The actual misrepresentation of fact is not necessarily unethical and is only rarely sufficient basis for a valid forceful third-party intervention. The idea that one's thoughts, knowledge and information are anyone's claimable possessions is clearly wrong. The use of deception to protect one from the initiation of force is obviously valid. The same principle can be applied to the protection of one's more abstract possessions (ideas, data, concepts, theories). Often a refusal to reply is a "dead giveaway" of information better concealed.\*

\*This statement is taken from a letter to the membership of the LPWS co-authored by Lauren A. Marshall and Cynthia R. Nist, March 12, 1977.



If an individual is placed in a position of sacrificing a higher value by not misrepresenting or lying, then he should as a rational being lie and misrepresent. Anyone who chooses to interact with him has no apriori claim to his possessions--this includes his knowledge. The concept of rights which is the central idea of libertarianism is based on the concept of selfownership. A person has a right to his own life--only! There is objectively no prima facie transgression of right in deception, lying or misrepresentation. As in the case of any transfer of possessions, the requirement for accurate information requires an explicit and voluntary agreement.

An agreement is ethically enforceable but a demand, inquiry, or any request for information is not. The attempt to enforce a requirement of the truth on persons who have not made an agreement to do so under stated terms and conditions is in itself the initiation of force.

An explicit agreement to provide accurate information is enforceable. The essence of an objective epistemology centers on the use of concepts which refer to specific attributes of the phenomenal universe. These concepts are communicable through abstract symbols (words, numbers) which identify specific attributes, elements and conditions of reality. The explicit assent to provide accurate information specifically identifies the willingness to engage in a transaction. Concepts can be unambiguously specific in conveying intent. Percepts are insufficient. The explicit assent to provide accurate information identifies the willing transfer of a proprietary right over the service performed by the informer for the questioner. The existence of the assent transfers ownership over the information--the assenting informer's failure to provide the value would constitute withholding the value now belonging to the questioner against the new owner's will. This is breach of agreement which is a form of initiatory force--in this case the forceful unjustifiable withholding of a value belonging to someone else against his will.

The libertarian proscription of fraud must logically be replaced with the prohibition of breach of contract (oral or written). This can and should include contractual truth-telling. An individual who agrees to perform a service is declaring that some objectively defined portion of his value now belongs (assuming the terms of the contract have been fulfilled by the other party(ies)) to some defined other person. Failure to transfer this value constitutes holding the property of another against his will i.e. it is a form of initiating force. Breach of contract is an objectively-definable subset of initiatory force--lying, concealment of information, deception, and misrepresentation per se are not. Any agreement can include a statement to the effect that all facts voluntarily provided are to the best of one's knowledge accurate.



The concept of fraud is logically contradictory and antilibertarian for other fundamental reasons. The definition of fraud depends on implicit agreements. An agreement requires an act of explicit consent involving the transfer of specific symbolic information on the conceptual level of communication. An agreement cannot be implied much less can the more formal notion of contract. In spite of the common law claims to the contrary, "implied contracts" are logically contradictory. A contract results from actions defining in precise terms the transfer of objectively defined values. To "imply" a contract is to deny the essential character of contractual agreements. How is one to know, for instance, the terms, limitations, provisions and stipulations on an implicit basis? Obviously one cannot know for certain. One's life becomes subject to social convention. One owes a value to others apriori and in essence has lost dominion over that portion of his life. Information is collectively owned and apportioned. This is the essence of the concept of "fraud". It is a spin-off of implied "social contract". The rationale for implied contract comes from the altruist ethic requiring apriori and thus undefined obligations. It forms the basis for the imposition of vague, collectively defined standards and demands on the individual.

The concept of fraud depends on collectively defined and collectively enforced standards of how much information is required in a particular situation. The concept of an individual's right to his own life is subordinate to vague and highly mutable standards imposed by the group. In the present system an individual is constantly required to meet the subjective and arbitrary implied demands of others. He is never permitted to treat his life as something which is absolutely his own. Many libertarians when pressed on this issue resort to quasi-altruistic concepts and community defined standards such as "fair play" and "benevolence" or "magnanimity".

What is misunderstood is the importance of conceptual rigor and the necessity of applying this at every level of one's life. The rational desire to avoid imposing sacrifices on others requires that one totally opposes sacrifices in one's own life. The acceptance of an implicit obligation is in direct contradiction to the ethic of rational selfishness and self-ownership. Though it is true that many aspects of day to day relations can be left undefined as too trivial for defined agreement, their performance does not constitute a precedent for future impositions. Because a guest slams the door or falls hard in my chair does not mean that (a) my lack of explicit response means acceptance or that (b) I will permit it again in the future. The fact that one dates someone four times does not obligate one to date a fifth time. The whole idea of implied obligations is contrary to the idea of rational selfishness. "Fair play" or "benevolence" are inconsistent with the ethic of rational egoism. An individual has no ethical obligation except to live in his own interest; he may not forcibly



interfere in the life of another unless force has been initiated by that person in some form. Failure to meet an implied obligation as required in the legal notion of fraud does not meet the criteria of initiation of force.

Implicit obligations are the cause of all kinds of presumptions and impositions on the individual. The implied obligation is the ground-floor of a social metaphysic where individuals tend to view reality as the product of other minds. The concept of fraud is a transposition of altruistic attitudes and collectivistic social norms into law. It imposes the unspoken, undefined "group-think" on the valid proprietarian decisions of the individual.

"Consumer fraud" is a good example of the further institutionalization of this attitude. Caveat emptor should be the motto of every rational and alert person. The attempt to protect persons from their own choices in the marketplace is a form of arbitrary, paternalistic meddling. Firms will provide accurate information as part of an attempt to maximize trust in their products. Those who suffer from a decision made without prior investigation as to the trustworthiness of the firm deserve to suffer the uncertain risks associated with their ill-considered choices. In turn, firms which deceive their clients will vastly increase their risk of failure. The lesson to be learned is to avoid implied relationships and untested assumptions as to the behavior of others. Conceptually explicit agreements provide a solid basis for genuinely honest and enforceable relationships.

A major flaw in the concept of fraud as it is currently employed is the reliance on intent as a basis for defining misconduct. Intent has no basis in a rational libertarian system of justice. The physical results of an action are the only basis for restitutional claims--not the motive for the action. The common law concept of fraud defines misconduct not only on the basis of what is performed in the action itself but the motive for it. For instance, deceiving someone for profit is punishable. Fraud, however, does not include deceiving someone for what is considered to be in their best interest. Many libertarians tend to accept this view. Someone acting in kindness or without malevolent intent is somehow less responsible for the effect of his actions than someone who is not so benevolent or non malevolent (i.e. willing to live for others). The wrong assumption here is that anyone has the right to punish someone for the character of their motives. This is wrong. No individual has the right to anything beyond what belongs to him. Restitution of what belongs and righting of damages caused are the only ethically acceptable basis for libertarian justice. Punishment for motives constitutes the initiating of force.

An individual's right to his own life is intact even if his life is lived for the worst of motives. The fact of some evil curmedgeon wishing the worst for everyone does not make him liable to added damages for restitution anymore than his neighbor who spends his time in benevolent



prayer for the common good. If the curmedgeon assaults a kindly, little old lady and steals her last penny, justice would require the same restitution (assuming the damages were objectively no different) as if the judgement were made against the prayerful benevolent who has assaulted and robbed the meanest, richest magnate in town for the sake of saving a starving beggar.\* The same restitution would be required of a man who had accidentally killed his beloved friend in a hunting accident, then if the same man had been viciously murdered by the local chain-saw killer. Intent has no basis in the forceful intervention of third parties to retribute a prior damage.

The concept of intent is a holdover from the altruist-collectivist way of thought. It has no place in a rational, objectively-based libertarian justice system. An individual has every right to be mean, greedy, and deceitful. He is not ethically obligated to provide for the lives of others in any manner, shape or form. The object of libertarian justice is restitution of objective damages, not the punishment of motive.\*

Persons should be aware of the right of others and what is entailed in that right before entering into relationships claiming that one has been wronged because information was purposively withheld is the sign of an immature personality. Respect for the right of another to his own life should extend into friendships and love relations. In fact, respect for the privacy and the right of choice on the part of one's closest relations is the basis for healthy, productive relationships. Building a friendship on the basis of assumed obligations is like building a house on a foundation of quicksand. Deception and concealment is a normal and necessary part of life. The art of discretion and of tactical maneuver in trading on the marketplace of value involves the use of delimited information. Thus the concept of "fraud" is an altruist holdover and definitely anti-libertarian. It should be dropped from libertarian political platforms and replaced by the prohibition of breach of contract or breach of agreement.

(Please note: I have not explicitly affirmed the accuracy of the above information. I expect it will stand on its own logical merit. The fact that I may have concealed effective counter arguments could (according to altruist logic) make me guilty of fraud. I affirm that I have not and that what I have written is true to the best of my knowledge. Now, I really do owe you the truth: don't I?)

\*If intent were the basis for judgement in a libertarian society, the prayerful benevolent could be judged more harshly for his moral hypocrisy and his attempt at coercive redistribution of wealth. Even though the prayerful benevolent is characterologically the more evil of the two and deserves to be despised by any rational person, the judgement should be limited to repayment of objectively determined damages--nothing less, nothing more!





## FRAUD IS NOT A LIBERTARIAN CONCEPT

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The essential definition of fraud relates to the failure to provide information through concealment or the offering of inaccurate information during a transaction with an intent to gain a value from one who may have been unwilling to provide the value had he had the information.<sup>1</sup> The argument is that fraud removes a value from one through concealment, deception, or misrepresentation, who otherwise might be unwilling to do so, thus, constitutes a violation of the rights of the defrauded.

The concept of fraud is wrong because it treats information possessed by one individual as the apriori possession of others. It is also wrong because it enforces an obligation on one of the parties (of the transaction) based on the ex post facto unwillingness of another party. A third reason why fraud is wrong, is that it requires implicit, collectively-defined standards: it sacrifices individual right to social convention.<sup>2</sup> Fraud is an unlibertarian concept because it involves punishment for intent rather than for the objective consequences of the action itself. Fifth, the concept of fraud makes an individual responsible and liable to suffering the consequences for the actions of others incurred as a result of their own misinformed condition and mischoices. These are some of the reasons why fraud is not a libertarian concept and should be replaced by a prohibition of breach of agreement.

The libertarian ethic is based on the idea that an individual has an absolute right to his own life. This includes all of his justifiably acquired possessions.<sup>3</sup>

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1. The legal definition of fraud has been discussed in an earlier essay (see "The Fraud Question"). Fraud is defined in Webster's Seventh New Collegiate Dictionary (Chicago, G&C Merriam Co. 1970) as " . . . intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right." This is essentially the same as the legal definition in Black's Law Dictionary: "An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a right; a false representation of a matter of fact, whether by words or by concealment, which deceives and is intended to deceive another so that he shall act upon it to his injury " (Rev. 4th Edition (1968) p. 788).

2. This is not to say that social convention is necessarily illogical or not in keeping with rational, objective premises, it may well be. What is being opposed here, is the sacrifice of rigorous logical premises to argument from convention.

3. "Justifiably acquired" means anything gained without the initiation of force, or the forceful withholding of value belonging to another through breach of agreement. This includes any and all values gained in any and all voluntary transactions where the explicitly agreed upon terms have been fulfilled. Justifiably acquired does not require anything such as the so-called "fair market price" or "just compensation". A gift, inheritance or windfall profit are, for example, defensible within the realm of "justifiably acquired".



This means that in the context of his relations with other conscious, choice making individuals, he has no apriori or prima facie obligations to anyone else for any reasons other than if one or both of the following conditions apply: (1) he has an explicit and voluntary agreement (oral or written) with someone to provide a value; or (and) (2) he has caused someone an objectively definable damage for which he owes restitution. Apart from these two categories, there is no rational ethical basis for claiming an obligation (or for accepting one) without violating the individual's right to his own life (or without accepting an unnecessary surrender of a rightful prerogative).

This is the ethical basis for the libertarian view that an individual has an absolute legal-political right to his own life which may not be infringed unless he violates the rights of another. Only then is the use of intrusive, retaliatory force by the injured party, and by any and all other third parties, ethically sanctionable and, thus, legally justified. An individual has no ethical requirement to provide a value on the part of someone else -- as long as he does not violate the right of another to his own life or any portion thereof. The necessity of applying a consistently reasoned standard always compels a rational individual, within the limits of his knowledge, against sacrificing a higher value for a lower value. These basic conclusions on the objective nature of ethics and the rights of the individual permit a logical frame for examining the validity of the concept of fraud.

Information can be a possession as can be any other thing of value. Ideas, knowledge, data, facts, insights which occur in the mind, or which are stored or created in other forms, are valuables which are possessable.<sup>4</sup> The creation, and acquisition of information always requires the use of someone's capacities and often require great expense and entrepreneurial effort. As is the case with any other individually owned possession; no other person has an apriori or automatic claim to this value.

The right of self-ownership includes all of one's valuables. Any compromise of this right constitutes the betrayal of the entire principle. The principle of identity, which is essential to objective reason, permits no interim solutions e.g. "A" is "A". The identity of something is itself, or it is not. A principle is consistently applicable, or it is not. An individual is sovereign over his life and exercises full dominion over all of his possessions including the knowledge of his mind, or he does not. Permitting the latter case is to admit the principle of collective ownership of at least this category of value. To do so, is to lose the consistency of one's ethical standard of value, and to sanction the imposition of the opposite ethical premise i.e. that an individual's life belongs (or should belong) to others. To assert that any portion of an individual's knowledge belongs apriori to another without his consent, is to contradict the ethical foundation of libertarianism and undercut the absolute sanctity of an individual's right to his own life. The concept of fraud does this.

In requiring an individual to divulge information in certain transactions for gain where no explicit and voluntary prior agreement to do so exists, the prohibition of fraud compels one to provide a valuable possession which is additional to the values actually being transacted. The concealment of information or the provision for

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4. It must be distinguished, however, that ideas, concepts, or any other psychological phenomena cannot be owned in the sense of preventing others from developing and applying them. As they are organizational characteristics of matter and energy, they can only be possessed insofar as they are attributes of objects justifiably-acquired. This contradicts the present notion of patents and copyrights.



false, misleading or inaccurate information does not constitute a violation of another's right. This is so, even if it contributes or is associated with a gain of value on the part of the deceiver. There is no violation of rights, insofar as the transaction is concerned, as long as it is voluntary.

An individual commits no violation of rights by offering a possession, however defective -- this includes information. Anyone who accepts it must be willing to accept the liabilities of its defects. Anyone who asks another for information is asking for the gratuitous transfer of a value. A sharp trader, for example, who buys merchandise from one who does not know its "true market value" and conceals information as to its "true value" is, according to the definition of fraud, guilty of a punishable offense. But in libertarian terms, he is not guilty of a violation of rights if the transaction was voluntary and all its explicitly agreed-upon terms were met. There is no valid ethical reason for him to give away a precious value -- his knowledge of the market. In fact, there is every valid reason for him to profit by his own intelligence. Why sacrifice it for the sake of anyone else -- especially an inept competitor.<sup>5</sup> Even in the case where the same sharp trader employs lies and deception, he still has not violated the rights of his erstwhile competitor. As long as he is not forcing this information on his competitor, he is perfectly free to offer it up, whatever its inaccuracies. The acceptance on the others part is voluntary. No one is forcing him to accept the sharp trader's ostensive value. As long as the trader offers what is his own to offer and does not forcibly compell or threaten to do so, he is within his prerogatives. He is entitled to say what he wishes for any purpose as long as he does not explicitly and voluntarily agree to provide accurate information or truthful statements.

An essential plank of the libertarian theory of rights is the idea that an individual cannot be held responsible for the actions of others unless he voluntarily agrees. As is widely understood, the doctrine of collective responsibility (everyone being held responsible for the actions of others) is an essential moral prop of statism. Penalizing persons for not providing information i.e. concealment for gain, or for purposely lying or misrepresenting, constitutes making one responsible for the incautious judgements and choices (or mischoices) of others. One has no apriori responsibility for the actions of others. The doctrine of fraud permits anyone to assert ex post facto that any and all transactions are fraudulent. It is possible to indicate the withholding of information in any transaction or the existence of a possible misrepresentation, inaccuracy, or ambiguity in nearly all cases. Fraud is a legal notion without objectively definable limits. Its application depends on social convention. Its arbitrariness lends itself as the perfect instrument of authoritarian intrusion and coercion.

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5. To provide someone with "free" information, unless one gains a greater value in return by so doing, is to waste one's talent. "Free" insight reduces the respect of the ignorant for the tremendous investment and cost required to gain knowledge. The very essence of Marxism is to downgrade the value of intelligence and the real productive importance of entrepreneurial management which relies on knowing the market. All transactions in life are market transactions. This includes love, sex, child-rearing, friendship. They should be negotiated with the greatest craft. "Fraud" is, in essence, just another word for clever tactics.



The concept of fraud requires the imposition of implicit consent and implicitly-acquired obligations. An individual is required to provide accurate and relevant information. This obligation on his property is premised on the "operative assumption" of honesty and "fairness". This so-called operative assumption is nothing more than an intellectual dress-up of a community standard -- a validation of collective coercion, of peer group pressure as a substitute for logically-derived ethical principles and a code of legal rights. This is totally contrary to the libertarian requirement of explicit consent. There are no implicit agreements or "implicit contracts". The notion of "implied contract" is a contradiction in terms. For a contract to exist, requires the definition of specific terms, provisions, limitations, and obligation. Contracts and agreements to exist, require an explicit communication of concepts through the use of abstract symbology which have as their referents specific attributes of reality. This cannot take place without the use of explicit speech or writing, or some other form which is symbologically specific. Even a nod of the head is sufficient agreement in some contexts. The fact that people commonly relate to each other without defining their relationships, and that those who do, disregard specifically negotiating relatively trivial aspects of their interactions, does not mean the existence of an implied contract, agreement, or any ethical or legal obligation. It only means that many persons are more or less willing to leave their interactions with others undefined. It should be added, that they do so at their own risk. What they assume is their own assumption. It does not attain the status of an ethically-binding agreement merely because of collectively-defined standards. "Implied agreements" are the fictions of imagination and convention, and not the product of conceptually contrived reason and explicitly defined consent.

The lack of definition does not change the status of one's rights. The right to one's own life inheres in the volitional attribute of consciousness. One does not require a contract or an agreement with someone stipulating that one's property may not be stolen in order to protect against the violation of one's right. Contrary to the argument made by some libertarians<sup>6</sup> that changing the scope of the LPWS pledge to exclude fraud (and replace it with breach of agreement) would mean by implication the end of the prohibition on theft and murder etc. because these were not necessarily contractually excluded, is totally erroneous. The exclusion of fraud will reduce the rationale for the arbitrary intrusion and imposition of collective expropriations of individual value (specifically information). The exclusion of fraud and the inclusion of breach of agreement protects against the collectively-sanctioned initiation of force for any pretext.

The ethically based right to one's own life and property gives one the ethical prerogative to conceal information, to lie, deceive, misinform, and misrepresent in protecting or gaining what one considers to be a higher value.<sup>7</sup> This does not

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6. e.g. Richard B. Twight in his statement distributed at the second session of the LPWS Convention, April 8, 1977. Mr. Twight has shown a willingness, in verbal discussions with me, to sacrifice the right of an individual to the information he possesses to some community standard of what constitutes the requisite amount of information "owed apriori". He also believes in the existence, sanctity, and enforceability of "implied agreements" on the basis of social convention.

7. This given the caveat that no violation of another's right takes place.



deny the binding nature of an agreement once made. The explicit agreement to provide truthful or accurate information is binding (no matter what its actual intent) because it proclaims the transfer of title and ownership over a specified value to someone else. Voluntary transfer of title is the basis for restitutional intervention should the "goods" not be delivered. Agreeing to the truth is a contractual agreement to provide a value of specifiable nature. This is in contrast to merely talking -- giving away information without warranty.

An individual is responsible for initiating a conceptually specific, validative threshold. A binding agreement does not occur through the mere gratuitous offer of information. For instance the statement: "This car is in fine condition and it will provide you with a life time of dependable service" does not mean "I promise to provide you with fully accurate information to the best of my knowledge in this auto sale." The second statement is a binding agreement on the speaker -- the listener need say nothing. Failure to provide accurate information by the auto salesman ethically entitles the prospective buyer to use whatever retaliatory force he deems necessary to extract the informational value he is owed. The first statement fails to entitle the prospect with property rights to the information possessed by the salesman. The second explicitly transfers the title over the informational service to the prospective buyer.

The receiver of the title to accurate information may press for restitutional damages if the goods are not as specified. The informational property is being withheld by the informer against the will of the new owner. Force is being initiated in the forcible restraint over another's property. The knowledge promised belongs to another. Provision of false information is then a type of theft but more specifically a breach of agreement. No expropriation or arbitrary collective standards of "fairness" are required. Thus, the concept of fraud is unnecessary. Breach of agreement is a form of involuntary restraint which is objectively a violation of right. It is a unique subcategory of "initiatory force" and should be specifically identified in libertarian prohibitions.

The entire fraud issue indicates the presence of a whole complex of philosophical distortions and ethical misconceptions among libertarians. For instance, there is confusion on the role of intent in determining the severity of social (third party) intervention. This has already been discussed in the previous essay on "The Fraud Question" and need not be readdressed here. The continued stress on intent is significant, however, in identifying a vestigial psychology of inquisitorial intervention. The desire remains strong among "libertarians" to punish sin, to purify and homogenize individual motive. It is symptomatic of the continued envious desire for levelling, for eradicating the intellectual inequities which arise from unique individual capacities. The promotion of "openness", empathy, fair play, etc. is an intuitive masking of an insecurity, a basic avoidance of the rigorous discipline required by the ethic of rational selfishness at the level of interpersonal relations. It is an emotionally-directed attempt to buffer against the ruthless competition for value and the emotionally unobscured calculation of personal maximization at every level and moment of interaction. The emotional demand for "let's level with each other always" is more often a plea for "let's level each other". Knowledge is the ultimate rational bargaining tool in the market transactions of life. If self-interest and self-ownership are rational, objective requirements for the successful achievement and maintenance of self identity, then the unrestricted provision of a value contradicts the basic nature of conscious existence. The desire for "openness" as a blanket rule of personal interaction is an attempt to equalize the transactional skills of the participants.



The tendency for libertarians to demand blank checks of honesty and openness from each other is an unhealthy carry-over from a very unlibertarian cultural psychology. The proper approach to interpersonal relations should stress the sanctity of the individual's abstract possessions. Aside from the obvious fact that individuals are entitled to require full openness as a condition of friendship, they should carefully consider the ramifications of such a requirement. Demanding mutually compelling blank checks of personal information is not only an attempt at dyadic collectivization of individual knowledge but a process which requires the constant externalizing of internal judgemental processes. This fosters in individuals the replacement of a private, selfish, and proprietarian psychology with one of a public, other-oriented and collectivized egalitarian psychology.

The bitter rage over the fraud issue by otherwise intelligent and rational libertarians is an indication of the extremely sensitive and hostile reaction to the logical assault of rational egoism into the last major psycho-epistemological preserve of implied and unearned prerogatives. This will undoubtedly open a virtual Pandora's Box of fear and insecurity for many libertarians. Consistency requires no less than accepting and learning to appreciate the worthiness of a ruthless and unrelenting selfishness in others.

An individual's right to himself is not merely something which is granted out of its utility, it comes of a real requirement of successful human functioning. Libertarians must go beyond the mere grudging support they have given to the ethic of rational egoism at the political-economic level, to its full integration in every aspect of their lives. It requires the recognition and full acceptance on the emotional level that an individual is fully entitled to dispose and present information in a purposefully deceptive manner to protect and further his own interest. An individual is responsible for his own judgemental process. There are cases where the use of deception and lying may be fully justified and even desirable with one's friends and loved ones.

Take a situation in which a friend (i.e. one with whom one has maintained a satisfactory trading relationship and finds emotionally satisfying) insists on an explanation on some particular matter. Does that insistence have to be granted? In no way should it be if it is not in one's best interest. In fact, in being accosted to reveal knowledge one is being required to give away a valued possession for a consideration which may be below its worth. Placing someone in a position where his refusal to answer may in itself constitute an unwilling transfer of information entitles that individual to employ deception in protecting his valuable possession.

The privacy of one's mind is perhaps the dearest possession available to a conscious organism. Those who "trade" on their past merit, on emotional biases to pry or even invade the inner sanctum of one's personality deserve whatever they get. Beggars cannot be choosers. Peeping toms cannot expect to get their money back for an unsatisfactory show. A friend or lover who demands truth (where no agreement has been sought) in such a way as to endanger the possessor's value is like a beggar demanding a filet mignon. Pressuring someone to answer-up can be analogous to extortion, an ethically valid response is to act in self-defense i.e. deception.<sup>8</sup>

8. It is not identical as force is not necessarily involved and the pressure is not necessarily a violation of rights but it entitles one being pressured to deceive in response which also is not an initiation of force.



Truth is something one lives and experiences. It is not something which one automatically owes others. Love for a rational egoist is the emotional and intellectual satisfaction of experiencing identical (in principle) integration of ethical value true to one's nature: seeing one's values operating in someone else's life. Rational, objective "love" does not consist of devouring someone else -- attempting to make them part of oneself.<sup>9</sup> That is the sick perversity of altruist-collectivism. Love is not the merging of submergence of oneself with or into someone else. It is the exhilaration of witnessing and enhancing the self-centered and self-realizing integration of another. Ultimately, it is the love of truth personified in the conscious, rational integration of principle and action which is the only love one can experience for another person. It has nothing to do with the petulant and tedious demands for self-explanation and the dyadic collectivization of the privacy of one's mind.

The right of an individual to his own life is only the political-economic legal aspect of a much broader philosophical and psychological system of rational egoism. The development of a reasoned and objective consciousness ultimately leaves no room for the false sentimentality of the prurient and inflated emotionalism which comes of the altruist ethic. It does away completely with the expectation or desire of emotional "freebies" from others or the tendency to give them. There are no "blank checks" offered or requested. Individuals who respect each other, approach one another with great care as to not even inadvertently threaten a value belonging to the other. As in the case of every generous act, the truth from a friend is never demanded, cajoled, or wheedled, it is merely graciously accepted.

Thus, in every sense, the idea of fraud or that one must provide accurate information in any transaction as determined by a variable collective standard is grossly anti-libertarian. It is not only indefensible as a libertarian legal prohibition but it is contrary to a rational-egoistic sense of life. It should be replaced by the solidly libertarian proposition that breach of agreement is wrong. Libertarians should shun anything which leads the interpersonal collectivization of personal information

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9. The definition of love employed here is at odds with the monogamantic "romantic love" expressed in Ayn Rand's novels. An objectively based epistemology requires that all value-choices derive from the same reasoned premises. Thus, there can be no dichotomous standards between so-called "esthetic" and "ethical" choices. There is no difference in kind between the value choices in "love" or any other kind of choice. "Love" is, in rational and objective terms, no more than the supreme valuation one can have for another and the appropriate emotional gratification one experiences as a result of a conscious process of evaluation (and re-evaluation). However, the esteem one holds at the moment for someone should not impinge on the self-centered determination of the marketability and competitive exchange potential of the values one possesses. Esteem for another (and much less so rational egoistic love) is inconsistent with desiring self-sacrificing "honesty" and "openness" on the part of others. To a psychologically integrated libertarian it should be distasteful.



